

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.206 OF 2016

S.P.S.Scrubing System	...Applicant
Versus	
Sushant Mahadev Patil & Anr.	...Respondents

Mr. Mahindra B.Deshmukh for the Applicant
Mrs. N.S.Jain APP for the State.

CORAM: A.M. BADAR J.
DATED: 26th September, 2017

PC:-

1. Heard the learned advocate appearing for the applicant/original complainant. Perused the impugned judgment and order dated 7th May 2016, whereby the Respondent No.1 came to be acquitted of the offence punishable under Section 138 of the Negotiable Instrument Act.

2. It is seen that the Respondent No.1 had taken advances towards travelling and other expenses from his employer i.e the present applicant/original complainant. After adjustment

of expenses incurred by the Respondent No.1, some amount was due and recoverable from him. A document purported to be acknowledgement of debt came to be prepared by the parties, which according to the learned advocate for the applicant is totally misconstrued by the learned Trial Magistrate while acquitting the Respondent No.1.

3. Perusal of the impugned judgment shows that the learned trial Magistrate has accepted the fact that there was acknowledgement of debt by Respondent No.1/original accused. He has not considered that document with a reason that it is not a registered document or scribed on the stamp paper. Considering these reasoning adopted by the learned trial Magistrate, the following order:-

ORDER

- (i) The application is allowed.
- (ii) Leave as prayed is granted.
- (iii) Appeal is admitted.

- (iv) The application for leave to appeal be treated as memo of appeal.
- (v) Issue notice to Respondents. The learned APP waives notice for Respondent No.2/State.
- (vi) Action under Section 390 of the Code of Criminal Procedure to follow before the learned trial Magistrate.
- (vii) Call for Record and Proceedings.

(A.M. BADAR, J)